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TAGS: [PREL](#) [UNSC](#) [ECON](#) [PGOV](#) [IZ](#)
SUBJECT: OIL FOR FOOD GUIDANCE

REF: BAGHDAD 03566

Classified By: NEA DAS R.J.Schmierer for reasons 1.4(b) and (d)

¶1. (S) This cable is to respond to reftel request for guidance from the Department.

¶2. (S) The Department appreciates the Embassy's reporting on the outstanding issues with the Oil-for-Food Program (OFF). While the Department has no objection to the Government of Iraqi (GOI) proposing another follow-up meeting with the UN OFF experts, it supports the P-5 proceeding as scheduled with a UN Security Council (UNSC) letter to the UN Secretary General (UNSYG) detailing the OFF close-out plan, including its 45 day resolution period.

¶3. (S) The United States is in favor of the GOI meeting all its OFF obligations in a manner that addresses the concerns of the contract supplier, the relevant GOI ministry and the United Nations. However, given the numerous reports from the UNSYG and the UNSC of the past three years noting the lack of progress on the part of the GOI to resolve the remaining OFF issues, the P-5 have decided to move to close the OFF within a 45 day period. Currently, the relevant GOI ministry has control over whether or not an OFF supplier will be paid because the ministry is responsible for providing the proper documentation to the UN to release payment to the supplier. However, the ministries have proven both unwilling and unable to do so. Widespread reports that certain ministries have instituted Saddam-era kickback schemes in exchange for releasing the documentation required for the release of payment to the supplier have made both the UN and the BNP Paribas (the bank responsible for the financial administration of the OFF) uncomfortable about moving forward with any additional OFF payments in the absence of clear guidance from the UNSC on how to proceed.

¶4. (S) Since the official closure of the OFF program on December 31, 2007, the GOI has met with UN OFF experts three times in an attempt to resolve the remaining OFF contract issues. None of these meetings has resulted in progress, as was noted in the UNSYG's reports. As a result, the P-5 have decided to modify the payment process for OFF contracts to facilitate resolution of the remaining contracts in a timely manner. Under the P-5 plan, the GOI will have 45 days to present credible evidence that a disputed contract should not be paid. If no such evidence is presented, then the contract will be paid in full by BNP Paribas. If credible evidence is presented the dispute will be resolved by the dispute mechanism outlined in the original contract. The P-5 plan, which reflects USG policy, was originally circulated in May 2008, in the form of a letter from the UNSC to the UNSYG. The Government of Costa Rica (GOCR) objected to this process over concerns of further corruption within the OFF program. The GOCR was demarched in Washington and San Juan regarding the need to move the OFF letter forward but the Costa Rican position did not change. P-5 members then decided that the policy should be moved forward in the form of an UNSC resolution (UNSCR) which would nullify the GOCR's opposition.

15. (S) The Department has not pushed the P-5 policy forward as an UNSCR in the last two months, and has no intention of doing so, because of the sensitivities surrounding current negotiations with the GOI. However, USG policy remains congruous with the contents of the P-5 letter, which we expect to be pushed forward upon the conclusion of current U.S.-GOI negotiations.

16. (S) The Department recommends the Embassy suggest to the GOI that it plan its meeting with the UN OFF experts as soon as possible, either before or during the 45 day period outlined in the current P-5 policy. However, given the lack of resolution on these outstanding OFF contracts in the last several years coupled with the fact that the UNSC has been dealing with the same OFF issues for the last five years with no resolution, and that two of the largest remaining contract holders are P-5 members (Russia and China), there appears to be little patience within the UNSC for additional delays on the part of the GOI.

17. (S) Note: It is anticipated that the GOI will seek an extension of international immunities for the Development Fund for Iraq (DFI) through a UNSCR within the coming weeks. Several UNSC members, including Russia, have expressed a strong interest in seeing the DFI immunities removed. If the GOI wishes to have a realistic chance at securing continued DFI immunities, it must make significant progress in resolving all remaining OFF issues. End Note.
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